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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4241

AN ORDINANCE relating to Noise Control; amending Bellevue City Code Sections 9.18.020, 9.18.030, 9.18.040, 9.18.050 and adopting new Sections 9.18.010, 9.18.015, 9.18.025, 9.18.045, 9.18.046, 9.18.060, and 9.18.070 in the Bellevue City Code.

WHEREAS, excessive noise is a form of pollution which is a serious hazard to the public health, safety and welfare; the quality of life and the environment; and

WHEREAS, intensifying urbanization and proliferating technology continually create and increase sources of excessive noise; and

WHEREAS, the community should be assured of an environment as free from excessive noise pollution as is permitted by the application of current technology; and

WHEREAS, a substantial body of science and technology exists by which excessive noise may be substantially abated; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act and the City's Environmental Procedures Code; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code 9.18.010 is hereby repealed.

Section 2. Bellevue City Code Chapter 9.18, Noise Control is amended by the addition of a new section 9.18.010 which reads as follows:

9.18.010 Purpose.

The purpose of this Chapter is to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. The intent of the City Council is to control the level of noise pollution in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment; by establishing maximum environmental noise levels applicable within designated areas or zones of the city and to declare certain noise producing activities to be noise disturbances.

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Section 2. Bellevue City Code, Chapter 9.18, Noise Control, is amended by the addition of a new Section 9.18.015 which reads as follows:

9.18.015 Definitions.

All terminology used in this Chapter which is not defined below shall be interpreted in conformance with the most recent definitions used by the American National Standards Institute (ANSI) or its successor body.

A. Arterial - a principal, minor or collector arterial as now or hereafter defined in the City's Comprehensive Plan, Traffic/Circulation Element 21.M.210.F.

B. A - weighted sound level - the sound pressure level in decibels measured using the "A" weighting network on a sound level meter as specified by the American National Standards Institute specification for sound level meters as now existing or as hereafter amended or modified. The level so read is designated dBA.

C. Construction - any site preparation, assembly, erection, demolition, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities or similar property.

D. Decibel (dB) - a unit for measuring the volume of sound.

E. EDNA - environmental designation for noise abatement, which is an area within which maximum permissible noise levels are established by the Washington State Department of Ecology and Bellevue City Code.

F. Emergency work - work required to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities to provide or restore immediately necessary utility service.

G. Impulsive sound - sound of short duration, usually less than one second, with an abrupt onset and rapid decay, with a peak value exceeding the ambient level by more than ten dBA.

H. Ldn - the day-night average sound level which is a 24-hour energy average of the A-weighted sound pressure level where 10 dBA is added to nighttime noise levels from 10:00 PM to 7:00 AM before averaging.

I. Leq - the equivalent A-weighted sound level which is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

J. Noise disturbance - any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or any sound which unreasonably injures or endangers the comfort, repose, health, hearing, peace, or safety of persons or animals.

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K. Pure tone component - any sound which can be distinctly heard as a single pitch or a set of single pitches. A pure tone shall exist if the 1/3 octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by 5 decibels for center frequencies of 500 Hz and above, by 8 decibels for center frequencies between 160 Hz and 400 Hz, and by 15 decibels for center frequencies less than or equal to 125 Hz.

L. Receiving property - real property within which sound originating from outside the property is received.

M. Sound level - a weighted sound pressure level measured by the use of a sound level meter using an "A" weighted network and reported as decibels, dBA.

N. Sound level meter - a device which measures sound pressure levels and conforms to Type I, S1A, Type II, or S2A, as specified in the American National Standards Institute Specification Section 1.4 (1971) as now exists or as hereafter amended or modified.

O. Warning device - any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle back up signal.

P. Weekday - any day Monday through Friday which is not a legal holiday.

Q. Weekend - Saturday, Sunday and any legal holiday.

Section 3. Section 1 (part) of Ordinance No. 3491 and Bellevue City Code 9.18.020, Noise Control, are amended to read as follows:

9.18.020 Exemptions.

A. The following sounds are exempt from the provisions of this chapter:

1. sounds caused by natural phenomena or wildlife; and
2. unamplified sounds created by domestic animals as permitted by Bellevue City Code, Title 20, or as regulated by Bellevue City Code, Chapter 8.04; and
3. sounds created by emergency equipment and work necessary for law enforcement or for the health, welfare and safety of the community; and
4. sounds originating from aircraft in flight; and

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5. sounds created by motor vehicles when regulated by Washington Administrative Code 173-62; and
6. sounds created by water craft when regulated by Washington Administrative Code 173-70; and
7. sounds created by surface carriers engaged in interstate commerce by railroad; and
8. sounds created by safety and protective warning devices where noise suppression would render the device ineffective; and
9. sounds created by existing electrical substations and stationary equipment used to convey water, waste water or natural gas by a utility; and
10. sounds from existing industrial installations which exceed standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of normal necessity and/or demonstrated routine normal operation. Changes in working hours, which would increase the average day-night sound level (Ldn), require written approval of the Director of Design and Development pursuant to Subsection 9.18.020.E.

B. The following sounds are exempt from the provisions of this chapter at all times if the receiving property is in Class B and Class C EDNAs, and between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 10:00 p.m. on weekends if the receiving property is located in a Class A EDNA:

1. unamplified sounds including human voices originating from public parks, playgrounds, and recreation areas; and
2. sounds created by bells, chimes and carillons not operating continuously for more than 5 minutes in any one hour; and
3. sounds created by the repair or installation of essential utility services and streets; and
4. sounds relating to temporary repair, minor addition or maintenance projects on existing homes, buildings, grounds and appurtenances; and
5. sounds emanating from officially sanctioned parades or other civic events; and

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6. sounds emanating from discharge of firearms on legally established shooting ranges; and
7. sounds created by blasting; and
8. sounds created by repairing, rebuilding, modifying, operating or testing any motor vehicle or internal combustion engine; and
9. sounds created by commercial business activity including, but not limited to: handling containers and materials; or sweeping parking lots and streets (except sweeping parking lots of business engaged in retail trade as defined in the Standard Industrial Classification Manual is exempt until 12:00 midnight); or boarding domestic animals (except expanded hours of operation may be authorized by the applicable department director).

C. Sounds created by construction equipment and emanating from construction sites are exempt from the provisions of this chapter between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except expanded hours of operation may be authorized by the applicable department director.

D. The sounds in Subsections 9.18.020.B and C are subject to the maximum permissible environmental sound levels in Section 9.18.030 and the noise disturbance provisions in Section 9.18.040 at all times other than when they are specifically exempt or authorized.

E. Nothing in these exemptions is intended to preclude the applicable department director through the authority of the State Environmental Policy Act from requiring installation of the best available noise abatement technology consistent with economic feasibility.

Section 4. Bellevue City Code Chapter 9.18, Noise Control, is amended by the addition of a new Section 9.18.025 which reads as follows:

9.18.025 Identification of Environments.

A. Environmental Designations for Noise Abatement are as follows:

1. Residential Land Use District - Class A EDNA
2. Commercial Land Use District - Class B EDNA
3. Industrial Land Use District - Class C EDNA

B. The land use districts listed in the City of Bellevue Land Use Code, Title 20 of the Bellevue City Code, are classified for the purposes of this Chapter as follows:

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1. Residential land use district - OU (vacant or developed as residential), R-1, R-1.8, R-2.5, R-3.5, R-4, R-5, R-10, R-15, R-20, R-30;

2. Commercial land use district - P0, O, OU (developed as office), OLB, NB, CB, CBD;

3. Industrial land use district - LI, GC.

Section 5. Section 1 (part) of Ordinance No. 3491 and Bellevue City Code 9.18.030, Noise Control, are amended to read as follows:

9.18.030 Maximum Permissible Environmental Noise Levels.

A. No person shall cause or permit sound to intrude onto the real property of another person which exceeds the maximum permissible sound levels established by this Chapter. The point of measurement shall be at the property boundary of the receiving property or anywhere within.

B. For sound sources located within the city, the maximum permissible sound levels are as follows:

MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING PROPERTY

EDNA of noise source	EDNA of receiving property		
	Class A (dBA)	Class B (dBA)	Class C (dBA)
Class A	55	57	60
Class B	57	60	65
Class C	60	65	70

C. Modifications to maximum permissible sound levels are as follows:

1. reduce by 10 dBA nights (10:00 PM to 7:00 AM) for receiving property in Class A EDNAs; and

2. reduce by 5 dBA for impulsive or pure tone sounds for any receiving property at any time; and

3. increase for short duration for any receiving property at any time:

a. increase by 5 dBA for 15 minutes in any one hour period; or

b. increase by 10 dBA for 5 minutes in any one hour period; or

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c. increase by 15 dBA for 1.5 minutes in any one hour period.

D. If the measurements of sound are made with a sound level meter, the instrument shall be in good operating condition and shall meet the requirements for a Type I or Type II instrument, as described in American National Standards Institute Specifications as now exist or as hereafter amended or modified. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such manner that the overall accuracy shall be at least that called for in the National Standards Institute specifications.

E. Where a receiving property lies within more than one EDNA, the maximum permissible sound level shall be determined by the most noise sensitive EDNA.

Section 6. Section 1 (part) of Ordinance No. 3941 and Bellevue City Code 9.18.040, Noise Control, are amended to read as follows:

9.18.040 Noise Disturbances.

A. All noise disturbances, not exempt under Section 9.18.020, are prohibited at all times. The content of the sound will not be considered in determining a violation.

The following acts are considered to be noise disturbances if the noise is clearly audible across a real property boundary, or at least 75 feet from the source:

1. Operating or playing, or permitting the operating or playing of any audio equipment, television set, musical instrument and similar device, whether portable or stationary or mounted on or within a motor vehicle.

2. Creating loud and raucous, and frequent, repetitive, or continuous sounds with the amplified human voice.

3. Intentional sounding or permitting the sounding outdoors of any emergency warning device where an actual emergency does not exist.

4. Operating or permitting the operating of any diesel, pneumatic or gasoline powered equipment that is not equipped with a sound reducing or noise attenuating device.

5. The foregoing enumeration of acts shall not be construed as excluding other acts which may constitute noise disturbances.

Section 7. Bellevue City Code, Chapter 9.18, Noise Control, is amended by the addition of a new Section 9.18.045 which reads as follows:

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9.18.045 Development Restrictions.

A. New residential structures shall not be approved for construction if the exterior Ldn anywhere along the proposed building lines of the structure exceeds 65 dBA unless sound attenuation measures are incorporated into the site design and/or the design and construction plans of the structure which are intended to reduce the maximum interior Ldn as follows:

1. 40 dBA or lower for sleeping areas; and
2. 45 dBA or lower for non-sleeping areas.

B. Play area equipment shall not be installed as part of an exterior public or private community recreation area if the exterior Leq (daytime) at the play area site exceeds 55 dBA unless sound attenuation measures including, but not limited to berms, barriers and/or buildings are incorporated into the site design which are intended to reduce the maximum exterior Leq (daytime) to 55 dBA or lower.

C. Arterial improvements requirements in Class A EDNA's are as follows:

1. In Class A EDNA's, arterial improvement projects not including the addition of walkways, bicycle lanes and minor widening must include a noise analysis of the affected environment by a qualified noise consultant if:

a. The existing exterior noise level exceeds 67 dBA peak hour Leq, or

b. The projected exterior noise level as a result of the project is estimated to increase beyond 67 dBA peak hour Leq, or

c. The exterior noise level is expected to increase by 5 dBA or more as a result of the project.

2. The point of exterior noise level measurement for purposes of this Subsection will be five feet above existing grade anywhere along a parallel line 60 feet on either side of the arterial centerline.

3. Noise mitigation measures, intended to reduce exterior noise levels to 60 dBA Ldn or lower, will be approved by The Director of Design and Development if the cost of noise mitigation is included in The CIP budget, or by the City Council if additional funds for noise mitigation are required, in consideration of the following factors:

a. Whether reasonable noise mitigation measures are available which will reduce exterior noise levels by 3 dBA or more; and

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b. Whether the financial impacts of noise mitigation measures are not disproportionate to the overall cost of the arterial improvement project; and

c. Whether benefited property owners contribute to the cost of mitigation, provided that this factor only applies if existing exterior noise levels exceed 67 dBA peak hour Leq; and

d. Whether the benefited community is supportive of noise mitigation measures.

Section 8. Bellevue City Code, Chapter 9.18, Noise Control, is amended by the addition of a new Section 9.18.046 which reads as follows:

9.18.046 Variance.

A property owner, or authorized agent of the property owner, may request variance from the provisions of this chapter using Process III - Variance Process - Section 20.35.300 of the Land Use Code.

Section 9. Section 1 (part) of Ordinance No. 3491 and Bellevue City Code 9.18.050, Noise Control, are amended to read as follows:

9.18.050 Violation - Penalty.

A. Violations-Unlawful. The violation or failure to comply with any of the provisions of this Chapter is declared to be unlawful.

B. Civil violation. Any violation of any provision of this Chapter is a civil violation as provided for in Bellevue City Code Chapter 1.18 for which a monetary penalty may be assessed and abatement may be required as provided therein.

C. Criminal penalty. In addition to or as an alternative to any other penalty provided by this Chapter or by law, any person who violates any of the provisions of this Chapter shall be guilty of a misdemeanor.

Section 10. Bellevue City Code, Chapter 9.18, Noise Control, is amended by the addition of a new Section 9.18.060 which reads as follows:

9.18.060 Administration and Authority.

A. The Bellevue Police Department is authorized to administer and enforce the provisions of this chapter concerning noise disturbances.

B. The Bellevue Design and Development Department is authorized to administer and enforce the provisions of this chapter concerning noise disturbances from stationary noise sources and noise related development permit conditions.

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C. The Bellevue Storm and Surface Water Utility is authorized to administer and enforce the provisions of this chapter concerning all noise created by permitted clearing and grading activities.

D. All City Departments are authorized to assist the Departments with primary enforcement responsibility.

Section 11. Bellevue City Code, Chapter 9.18, Noise Control, is amended by the addition of a new Section 9.18.070 which reads as follows:

9.18.070 Evaluation.

An evaluation of the effectiveness of Section 9.18.040 shall be performed by the Design and Development Department. The evaluation shall include: the number of noise complaints received; the source of the noise which caused the disturbance; and the enforcement action taken. The Department shall report to the Council approximately one year from the date this ordinance takes effect. The Council may at that time choose to continue, modify or rescind Section 9.18.040.

Section 12. Bellevue City Code, Chapter 9.18, Noise Control, is amended by the addition of a new Section 9.18.080 which reads as follows:

9.18.080 Construction - Severability.

A. This Chapter shall be liberally construed to carry out its broad purposes.

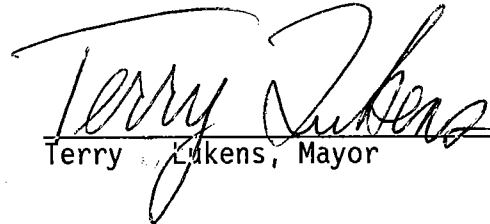
B. If any provision of this ordinance is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

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Section 13. This Ordinance shall take effect and be in force thirty days after final passage by the City Council.

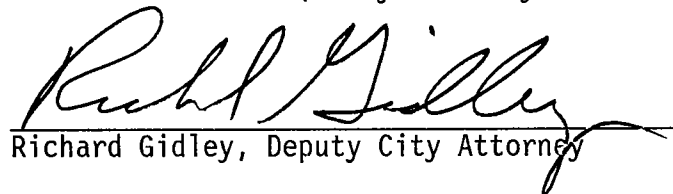
PASSED by the City Council this 15th day of April, 1991, and signed in authentication of its passage this 15th day of April, 1991.

(SEAL)

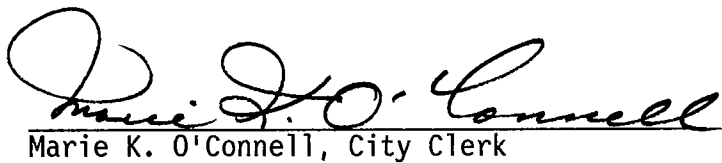

Terry Lukens, Mayor

Approved as to form:

Richard L. Andrews, City Attorney


Richard Gidley, Deputy City Attorney

Attest:


Marie K. O'Connell, City Clerk

Published April 22, 1991